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SENATE BILL NO. 10

Offered January 11, 2006

Prefiled December 9, 2005

A BILL to amend and reenact § 33.1-72.1 of the Code of Virginia, relating to rural additions to the secondary highway system in Wythe County.

Patron—Reynolds

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 33.1-72.1 of the Code of Virginia is amended and reenacted as follows:**

§ 33.1-72.1. Taking certain streets into secondary system.

A. "Street," as used in this section, means a street or highway shown on a plat which was recorded or otherwise opened to public use prior to July 1, 1992, at which time it was open to and used by motor vehicles, and which, for any reason, has not been taken into the secondary system of state highways and serves at least three families per mile.

B. "County," as used in this section, means a county in which the secondary system of the state highways is constructed and maintained by the Department of Transportation and which has adopted a local ordinance for control of the development of subdivision streets to the necessary standards for acceptance into the secondary system.

C. "Speculative interest," as used in this section means that the original developer or a successor developer retains ownership in any lot abutting such street for development or speculative purposes. In instances where it is determined that speculative interest is retained by the original developer, developers, or successor developers and the governing body of the county deems that extenuating circumstances exist, the governing body of the county shall require a pro rata participation by such original developer, developers, or successor developers as prescribed in subsection G of this section as a condition of the county's recommendation pursuant to this section.

D. "Qualifying rural addition cost," as used in this section, means that portion of the estimated engineering and construction cost to improve the street to the minimum standards for acceptance remaining after reducing the total estimated cost by any prorated amount deemed the responsibility of others based on speculative interests as defined in subsection C.

E. Whenever the governing body of a county recommends in writing to the Department of Transportation that any street in the county be taken into and become a part of the secondary system of the state highways in such county, the Department of Transportation thereupon, within the limit of available funds and the mileage available in such county for the inclusion of roads and streets in the secondary system, shall take such street into the secondary system of state highways for maintenance, improvement, construction and reconstruction if such street, at the time of such recommendation, either: (i) has a minimum dedicated width of 40 feet or (ii) in the event of extenuating circumstances as determined by the Commonwealth Transportation Commissioner, such street has a minimum dedicated width of 30 feet at the time of such recommendation. In either case such streets must have easements appurtenant thereto which conform to the policy of the Commonwealth Transportation Board with respect to drainage. After the streets are taken into the secondary system of state highways, the Department shall maintain the same in the manner provided by law.

F. Such street shall only be taken into the secondary system of state highways if the governing body of the county has identified and made available the funds required to improve the street to the required minimum standards. The county may consider the following options to fund the required improvements for streets accepted under this section:

1. The local governing body of the county may use a portion of the county's annual secondary highway system construction allocation designated as "rural addition funds" to fund the qualifying rural addition costs for qualifying streets if the county agrees to contribute from county revenue or the special assessment of the landowners on the street in question one-half of the qualifying rural addition cost to bring the streets up to the necessary minimum standards for acceptance. No such special assessment of landowners on such streets shall be made unless the governing body of the county receives written declarations from the owners of 75 percent or more of the platted parcels of land abutting upon such street stating their acquiescence in such assessments. The basis for such special assessments, at the option of the local governing body, shall be either (i) the proportion the value of each abutting parcel bears to total value of all abutting parcels on such street as determined by the current evaluation of the property for real estate tax purposes, or (ii) the proportion the abutting road front footage of each parcel

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59 abutting the street bears to the total abutting road front footage of all parcels abutting on the street, or
60 (iii) an equal amount for each parcel abutting on such street. No such special assessment on any parcel
61 shall exceed one-third of the current evaluation of such property for real estate tax purposes. Special
62 assessments under this section shall be conducted in the manner provided in Article 2 (§ 15.2-2404 et
63 seq.) of Chapter 24 of Title 15.2, mutatis mutandis, for assessments for local improvements.

64 2. The local governing body of any county may use a portion of its annual secondary highway
65 system construction allocation designated as "rural addition funds" to fund the qualifying rural addition
66 cost for qualifying streets within the limitation of funds and the mileage limitation of the
67 Commonwealth Transportation Board's policy on rural additions.

68 3. The local governing body of any county may use revenues derived from the sale of bonds to
69 finance the construction of rural additions to the secondary system of such county. In addition, from the
70 funds allocated by the Commonwealth for the construction of secondary road improvements, such
71 governing body may use funds allocated within the Commonwealth Transportation Board policy for the
72 construction of rural additions to pay principal and interest on bonds associated with rural additions in
73 such county, provided the revenue derived from the sale of such bonds is not used as the county
74 matching contribution under § 33.1-75.1. The provisions of this section shall not constitute a debt or
75 obligation of the Commonwealth Transportation Board or the Commonwealth of Virginia.

76 4. The local governing body of the county may expend general county revenue for the purposes of
77 this section.

78 5. The local governing body of the county may permit one or more of the landowners on the street
79 in question to pay to the county a sum equal to one-half of the qualifying rural addition cost to bring
80 the street up to the necessary minimum standards for acceptance into the secondary system of state
81 highways, which funds the county shall then utilize for such purpose. Thereafter, upon collection of the
82 special assessment of landowners on such street, the county shall use such special assessment funds to
83 reimburse, without interest, the one or more landowners for those funds which they previously advanced
84 to the count to bring the street up to the necessary minimum standards for acceptance.

85 6. The local governing body of the county may utilize the allocations made to the county in
86 accordance with § 33.1-75.1.

87 G. In instances where it is determined that speculative interest, as defined in subsection C, exists the
88 basis for the pro rata percentage required of such developer, developers, or successor developers shall be
89 the proportion that the value of the abutting parcels owned or partly owned by the developer,
90 developers, or successor developers bears to the total value of all abutting property as determined by the
91 current evaluation of the property for real estate purposes. The pro rata percentage shall be applied to
92 the Department of Transportation's total estimated cost to construct such street to the necessary
93 minimum standards for acceptance to determine the amount of costs to be borne by the developer,
94 developers, or successor developers. Property so evaluated shall not be assessed in the special
95 assessment for the determination of the individual pro rata share attributable to other properties. Further,
96 when such pro rata participation is accepted by the governing body of the county from such original
97 developer, developers, or successor developers, such amount shall be deducted from the Department of
98 Transportation's total estimated cost and the remainder of such estimated cost, the qualifying rural
99 addition cost, shall then be the basis of determining the assessment under the special assessment
100 provision or determining the amount to be provided by the county when funded from general county
101 revenue under subsection C of this section or determining the amount to be funded as a rural addition
102 under subsection D of this section.

103 H. Acceptance of any street into the secondary system of state highways for maintenance,
104 improvement, construction, and reconstruction shall not impose any obligation on the Board to acquire
105 any additional right-of-way or easements should they be necessary by virtue of faulty construction or
106 design.

107 I. *Any road in Wythe County may be taken into the secondary system as a rural addition if such*
108 *road was recorded in the Wythe County Circuit Court Clerk's Office prior to November 1, 1999.*

109 J. "Rural addition funds" means those funds reserved from the county's annual allocation of
110 secondary system highway construction funds, as defined in § 33.1-67, for the purpose of this section. If
111 such funds are not used by such county for such purpose during the fiscal year they are so allocated, the
112 funds may be held for such purpose for the four succeeding fiscal years. A maximum of five percent of
113 the annual secondary system highway construction allocation may be reserved by the governing body for
114 rural additions.